IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5028 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHAILESH DAYARAM GOR,

Versus

ADDITIONAL CHIEF SECRETARY (APPEALS), REVENUE DEPT

Appearance:

MR CH VORA for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

DELETED for Respondent No. 5

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 19/04/2001

ORAL JUDGEMENT

1. A dispute arose as to measurement in respect of City Survey No. 808 and 811 of Bhuj between the respective owners. An order came to be passed by Deputy

Collector Bhuj on 23.06.1994 which was carried in appeal before Collector Kutch, and the Collector Kutch passed an order on June 30th, 1995 (Annexure A) directing to maintain measurement of both the Survey numbers and to get the dispute decided by Civil Court of Competent jurisdiction. The said order was challenged before Deputy Secretary, appeals in a Revision Application. The said Revision Application came to be decided on May 7th, 1999 resulting into the dismissal of the revision and confirmation of the order in Kutch at Bhuj. After the order of the Collector Kutch at Bhuj on 30th June, 1995, Survey No.808 came to be purchased by the present petitioner from the original land owner, and therefore the revision before the learned Additional Chief Secretary, Appeals was preferred by the present petitioner and now aggrieved by the dismissal of the Revision he has preferred the present petition seeking quashment of impugned order passed by the Collector on June 30, 1995 and thereafter by the Additional Chief Secretary, appeal dated 12th July, 1999 (Annexure D).

2. It would also be appropriate to note that a suit came to be filed by the present petitioner in the Court of Civil Judge (Senior Division) at Bhuj bearing Regular Civil Suit No. 329/1997 against the original owners of City Survey No. 811 and one of whom was originally joined here as respondent no. 5 who has now been deleted.

3. In that suit a settlement was arrived at between the present petitioner and the owner of the City Survey No. 811 of Bhuj. That compromise was placed on record of the suit and a decree came to be passed in terms of that compromise. The decree was passed by the Court after being satisfied that there was a genuine settlement as the same was admitted by the parties who where present before the Court, and that they admitted the settlement as having been arrived at voluntarily. By virtue of that settlement it was agreed by the defendants land owners of City Survey No. 811 of Bhuj that the correct measurement of City Survey No. 808 of the ownership of the petitioner plaintiff would be 149.34 square meters and that they have no objection if requisite entries are made in the property card maintained by City Survey Superintendent. Likewise, the plaintiff agreed to the ownership and measurement of City Survey No. 811 belonging to the original defendants and the decree came to be passed accordingly.

4. Mr. C.H. Vora, learned Advocate appearing for the petitioner places on record a certified true copy of

the terms of settlement placed on record of the Civil Court, and the order passed thereunder. He also placed on record certified true Copy of the decree drawn in terms of settlement between the parties.

5. It transpires that dispute mainly revolved around the measurement of Survey No. 808 and 811 which are adjoining to each other and because of change in the records the dispute arose. The parties have obtained a decree from a Competent Civil Court on basis of a settlement arrived amongst them. The decree has not been subject to any challenge and has therefore attained finality. As such, interest of the Government or public Authority is not involved, and therefore, the petition deserves to be allowed, quashing and setting-aside the impugned order and directing the Authority to give effect to the decree passed by the Competent Civil Court in the records maintained in the office of City Survey Superintendent. Rule made absolute accordingly. No costs.

(A.L. DAVE,J.)

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